



Christine Jines
Director -
Federal Regulatory

SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington D.C. 20005
Phone 202 326-8879
Fax 202 408-4805

RECEIVED

DEC 15 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
EX PARTE OR LATE FILED

December 15, 1999

Exparte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Dear Ms. Salas:

**Re: Rulemaking 9108 - MCI Telecommunications Petition for Rulemaking; ENF-97-04-
America's Carriers Telecommunications Association Petition for Declaratory Ruling**

On November 30, 1999, Barbara Hunt, Linda Yohe and the undersigned from SBC attended a meeting hosted by Larry Strickling, Robert Atkinson and Darius Withers of the FCC. Other representatives of IXC's, CLEC's, billing aggregators and representatives of special interest groups, such as CERB (the Coalition to Ensure Responsible Billing) also attended this meeting. Numerous allegations were made regarding RBOC billing and collection services by certain IXC's, CLEC's, billing aggregators and groups. Those allegations appeared to be targeted primarily at RBOCs that had implemented the Anti-Cramming Best Practices Guidelines and CLEC's that were not providing Billing Name and Address (BNA). All in attendance at this meeting were directed to file a written exparte letter on December 15, 1999.

I. No Need for Regulatory Intervention

Billing and collection service was de-tariffed by the FCC in 1986 based upon the FCC's assessment that there were existing alternatives, including self-billing, to LEC billing that made further regulation of the rates and terms for that service unnecessary. The events that have occurred since that date only further affirm that conclusion. As reported in numerous industry publications, the largest IXC's have taken back the majority of their billing and now send only a very small percentage of their billing to the LEC's, consisting mainly of casual calls. With regard to the provisioning of BNA, allegations were made against CLEC's for not providing BNA so that carriers can bill for themselves, particularly in situations where there is no continuing customer/carrier relationship. No similar allegation was made against a RBOC for failing to fulfill that responsibility. There was some recognition that some CLEC's did not understand their obligation to provide BNA because CLEC's did not exist when the original BNA order was released. As established in the meeting, RBOCs are fulfilling their obligation to make billing

No. of Copies rec'd 041
List ABCDE

information available to other carriers. Thus, it is clear that there are alternatives to RBOC billing services that are currently meeting the needs of large segments of the carrier billing market. The fact that those billing alternatives exist supports the FCC's original detariffing decision and should re-emphasize that there is no need for regulatory intervention into the provision of billing services.

The one remaining issue involves the bill itself that is received by the consumer. For those customers that are billed by SBC, it is SBC's goal that the customer will receive a clear and understandable bill that includes only charges properly authorized by that customer. Nothing else. To that end, the Anti-Cramming Best Practices Guidelines have been established in their entirety by SBC and have also now been implemented by most other RBOCs. In addition, the Truth in Billing Order was released on May 11, 1999, setting forth billing requirements. It was reported at the meeting that there has been a 65% decrease in cramming rates since the Guidelines became effective and a 67% decrease in cramming complaints to the FCC. The FCC staff present at the meeting recognized the improvement in the level of cramming complaints, apparently as a result of the implementation of the Anti-Cramming Best Practices Guidelines by RBOCs. Progress continues to be made in moving the industry closer to the goal of providing a clear and understandable bill that includes charges only for those products and services authorized by the customer.

II. Specific Allegation

There was much discussion that centered on a U.S. West billing and collection termination letter that was distributed at the meeting. Since U.S. West was not present at the meeting, there was no opportunity to hear both sides of the issue and no rebuttal was given. There were also some specific allegations made regarding SBC companies. MCI alleged that Southwestern Bell Telephone Company (SWBT) had cancelled all of its billing and collection contracts and would not even provide a proposed draft of the new agreement in timely manner. SWBT did provide notice of cancellation of its billing contracts because its contract provisions require a substantial cancellation notice period. Further, some of the existing contract provisions do not reflect the loss of the ability to deny local service in Texas for non-payment of toll billing that changed as a result of Texas legislative action, as well as the Truth in Billing requirements. The contract provisions have now been revised and MCI has received SBC's new proposed contract terms for MCI.

There was also an allegation that SBC includes unreasonable provisions in its billing contracts that are not negotiable. The example given was a force majeure clause that excludes liability for Y2K problems. Degree of liability, of course, affects price. It is highly unlikely that carriers would be willing to pay the price to have SBC assume the liability, however nebulous, of a Y2K failure. Such failure, if it did occur could result in significant liability, which in turn translates to a price increase if SBC were to bear liability for any Y2K problems. The same analysis applies to the other issues raised regarding SBC's contract. Standardization of the contract terms, audit rights, uncollectible terms and conditions and unbillable terms and conditions all affect the price of the service. SBC could allow each and every carrier to negotiate unique terms without any limitation, but the cost of administering and providing the customized service would be increased dramatically. A billing service product must be standardized and high cost aspects must be limited, if SBC's service is to be viable. However, while we have a standard billing and

collection agreement, we do negotiate with carriers and clearinghouses, within reasonable parameters, as to the terms and conditions under which billing services will be provided.

III. Economic Issues

Some carriers alleged that they might not be able to continue to market dial-around services if lower priced LEC billing were not made available to them. Others alleged that the marketing of these services may be adversely impacted by the "overpricing" of billing and collection or the inability to include those charges in the customer's regular telephone bill. The Commission Staff raised a question as to whether, if the RBOCs were, in fact, grossly overpricing billing and collection service, would be creating a market opportunity for others.

The Staff's comments are, of course, supported by general accepted economic theory, which holds that that abnormal profits attract new competitors and in that manner a competitive market drives price to cost (including normal profits). Just as competitors flocked into the long distance market prior to the regulatory barriers being lifted because there were abnormal profits being made on long distance services for the purpose of supporting universal local service, so would competitors be flocking into the billing business if the claims of overpricing were true.

Some carriers painted the RBOCs as the only entities in a position to offer billing and collection for dial-around casual calling services at a reasonable price because the RBOCs are already submitting a monthly bill to the customer and the customer is already writing one check to pay that bill. However, the same could be said of the long distance carriers that submit their own bills to the customers that are PIC'd to their service. They already have the information needed to bill their own presubscribed customers without purchasing BNA from a LEC, they are submitting a monthly bill to the customer receiving a separate check from the customer. In addition, those large long distance companies have certainly proved in the past that they are adept at recognizing market opportunities. If there were any truth to the "overcharging" and "take it or leave it" claims, why haven't the larger long distance companies stepped in to take advantage of that market opportunity by offering to accept casual billing for their direct-billed customers?

Finally, there is always the possibility that the types of services being offered simply are not economically feasible services. The fact that carriers cannot make enough money on casual calling and other services provided to customers with whom they do not have an ongoing carrier/customer relationship to pay the rates charged for RBOC billing does not automatically establish that there is something wrong with the RBOC. The problem could be that the services such as "dial-around" calling simply do not generate a profit level that will cover the cost of billing customers with whom the carrier does not have an ongoing carrier/customer relationship. A competitive marketplace functions for the benefit of consumers, not competitors. If a particular competitor's service offering does not prove to be economically viable, there is not support system that establishes higher rates for other services to allow the non-profitable service to continue to be offered.

IV. Conclusion

Billing services is a success story where the Commission has detariffed a service previously provided under regulation and the marketplace is functioning on its own to regulate price and negotiability of terms. That is the goal we are moving toward for the entire telecommunications marketplace. The effects of competition are not always palatable to competitors, just as the effects of regulation are not always palatable to the regulated entity. In both instances, the goal is to benefit the public, not individual competitors. To that end, the competitive marketplace is working as expected in regard to billing and collection services and there is no need for any retreat to some form of regulatory intervention.

Please direct any inquiries to the undersigned.

Sincerely

A handwritten signature in black ink, appearing to read "Chris Jones", with a stylized, cursive script.

cc: Mr. Strickling
Mr. Atkinson
Mr. Withers